



31 January 2018

Greg Dudgeon, Superintendent
Gates of the Arctic National Park and Preserve
4175 Geist Rd
Fairbanks AK 99709
Sent via email

Re: State of Alaska consolidated comments regarding right-of-way considerations across Park lands for the proposed controlled access road for the Ambler Mining District Industrial Access Project.

Dear Superintendent Dudgeon:

The Alaska Departments of Fish and Game (ADF&G), Environmental Conservation (ADEC), and Natural Resources (ADNR) appreciate the opportunity to provide comments and recommendations for consideration in the National Park Service (NPS) environmental and economic analysis (EEA) as required for providing a right-of-way across park lands in the Gates of the Arctic National Preserve.

Congress recognized the Ambler Mining District as one of the areas in the state with the highest mineral potential, which if developed, could provide job opportunities and allow for economic growth in the state. To ensure those valuable resources would not be stranded, through the Alaska National Interest Lands Conservation Act (ANILCA), Congress provided for the authorization of surface transportation across federal lands from the Haul Road (i.e. Dalton Highway), through Gates of the Arctic National Preserve, to the Ambler Mining District.¹

To ensure authorization, ANILCA, the enabling legislation creating the Gates of the Arctic National Preserve, included provisions that, upon receipt of an application, require the Secretaries of Interior and Transportation to jointly prepare an EEA solely for the purpose of determining the most desirable route across the Western unit of the preserve, including the Kobuk Wild and Scenic River, and terms and conditions for the right-of-way (ROW).

In preparing the analysis, 43 CFR § 36.13(4) directs that the Secretaries shall consider the following

- (i) Alternate routes including the consideration of economically feasible and prudent alternate routes across the preserve which would result in fewer, or less severe, adverse impacts upon the preserve.

¹ Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) and the Secretary shall permit such access in accordance with the provisions of this section. (ANILCA Section 201(4)(b))

- (ii) The environmental, social and economic impacts of the right-of-way including impacts upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

The EEA fully replaces what would otherwise be required under the Section 102(2)(C) of the National Environmental Policy Act (NEPA) and is not subject to judicial review. This analysis is required to be prepared in accordance with the procedural requirements of 43 CFR §36.6. Subsection (5) of §36.6 directs the NPS to solicit and consider the views of other Federal agencies, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act; and after public notice, the NPS is directed to receive and consider statements and recommendations submitted by interested individuals and organizations.

We encourage the NPS to meaningfully collaborate with the state during the EEA development process to ensure the views of the state are considered by the NPS. The CFR clearly indicates the state, federal agencies and Native corporations are to be consulted separately and in addition to public notices. As the Preserve is carved out of surrounding state lands, it is prudent to engage the state early and often in the EEA process to ensure the route selection within the Preserve does not create environmental harm or unnecessary consequences to adjoining state lands.

We also encourage the NPS to meaningfully collaborate with the Native corporations of NANA and Doyon, as their respective experience in the region is invaluable, inclusive of infrastructure development and protection of cultural and subsistence resources. While other federal policies may direct the NPS to collaborate with Native Tribes, 43 CFR §36.6 (5) specifically directs the NPS to solicit and consider the Native corporations' views. To not engage the Native corporations in a meaningful way would be a disservice to the region and could result in a less objective analysis.

The State offers its expertise and experience in identifying and evaluating impacts of the proposed road corridors, both positive and negative, and in evaluating mitigation measures that can enhance positive and reduce negative potential impacts. These mitigation measures can then be developed into stipulations for the ROW. We recommend the NPS engage the State in reviews of the EEA during its development so the State's expertise can be efficiently utilized at the appropriate times in the process.

Below are some of the state regulatory authorities that are relevant to the selection of the ROW through GAAR and in the construction, operation and maintenance of the proposed road.

Water Resources

In Alaska's Constitution, water is declared as a public resource belonging to the people of the state to be managed by the state for maximum benefit to the public. All surface and subsurface waters on all lands in Alaska are reserved to the people for common use.

Construction and maintenance of the proposed road will most likely require the use of water or the temporary diversion of water. Operations of the road and maintenance of the ROW have the potential to impact nearby water bodies or wetlands. Permits typically take such impacts into account and require the operator to adhere to conditions and stipulations to avoid impacts. ADNR,

ADEC, and ADF&G all have significant expertise in protecting the state's water resources, water quality, and fish habitat. These agencies can assist the NPS in evaluating any proposed activities related to the ROW across NPS lands. For the purpose of selecting the ROW, relevant considerations include minimization of wetland impacts, as well as minimization of the distance to useable water sources for operation and maintenance of the road. ADF&G is a valuable resource in evaluating the suitability of a water resource for such activities and for evaluating the design of culverts to maintain water connectivity and fish passage.

Some examples of stipulation language from ADF&G Fish Habitat Permits include the screening requirements for water withdrawals in fish bearing waters:

- Water pump intakes shall be screened with a maximum of 0.25-inch mesh. Water velocity at any given point along the intake structure shall not exceed 0.5 feet per second.
- Screens must be inspected for damage (torn screen, crushed screen, screen separated from intake ends, etc.) prior to each deployment. Any damage observed must be repaired prior to use of the structure. The structure must always conform to the original design specifications while in use.

ADF&G Technical Report 97-8 – *Water Intake Structures an Alternative to Traditional Screened-Box Enclosures for the Protection of Fish* is attached for reference.

If a water body is fish bearing then ADF&G Fish Habitat permits will be required for construction of stream and river crossings and long-term maintenance to ensure unimpeded passage for all species and all appropriate life stages of fish. This may include periodic removal of beaver dams and other woody debris. ADF&G can recommend adequate parameters for sampling for fish presence prior to final bridge/culvert design to enable the appropriate placement of crossing locations.

Land Resources

Material sites are a necessary component of road construction. The relative potential impacts to the environment due to hauling gravel materials longer distances verses closer spaced gravel resources should be clearly understood when selecting material sites within park lands. The state requires any material site, regardless of land ownership, to submit a mining and reclamation plan for review and approval. While it is unlikely to be needed on NPS lands, attached is ADF&G Technical Report 13-3 *Alaska Blasting Standard for the Proper Protection of Fish*. This guidance could be a factor depending on the location of material sites or if pilings will need to be driven for any bridge installations.

The state owns submerged lands associated with navigable waters. Construction and use of bridges or other improvements across state-owned submerged lands will need ADNR authorizations. ADNR also issues land use permits for construction camps or staging areas on state lands. This expertise should be useful to the NPS in making decisions for construction and maintenance activities on park lands.

The ADNR Division of Geological and Geophysical Surveys (DGGS) and the Alaska Department of Transportation (ADOT) can be of service to the NPS in final siting of the ROW. Slope failures, snow avalanching, seasonal flooding, and ground ice content are considerations when selecting a ROW.

Wildlife and Subsistence Resources

The ADF&G is the State of Alaska's principal manager of fish and wildlife resources and their habitats, regardless of land ownership. ADF&G is mandated under state law to "manage, protect, maintain, improve, and extend the fish, game, and aquatic plant resources of the state in the interest of the economy and general well-being of the state . . ." (AS 16.05.020).

The ADF&G Divisions of Habitat, Subsistence, and Wildlife can help the NPS to identify direct and indirect impacts that may be a consideration in siting the ROW and help evaluate the appropriate mitigation measures which the NPS may develop into stipulations for the use of the ROW.

The ADF&G *Comprehensive Subsistence Harvest Reports* provide comprehensive survey information including demographic, economic, and sharing pattern information. Local and traditional knowledge of wild resources and subsistence practices are presented in these reports to contextualize baseline subsistence information. Big game harvest information is also collected by ADF&G. This information should be of use to the NPS in the EEA as well as providing insight into land use patterns. It is recommended the NPS collaborate closely with ADF&G to ensure the data and information the NPS uses in its analysis is comprehensive and verifiable.

Cultural and Archaeological Resources

The ADNR Office of History and Archaeology (OHA) has significant expertise in the known cultural and archaeological resources in Alaska. The OHA can assist the NPS in identifying cultural, historical, or archaeological sites and development of mitigation measures to offset potential impacts. It is highly recommended that the selection of a ROW on park lands should not have an adverse effect on cultural, historical, or archeological resources on state lands.

Recent State Studies

Work by the ADOT in 2009 to 2012 is a source of information to consider during the ROW selection through the GAAR and inform the EEA. These include:

- Gates of The Arctic National Park and Jim River Landslides Geotechnical Investigation
- Ambler Mining District Access Preliminary Hydrology Reconnaissance Memorandum
- Ambler Mining District Access Geotechnical Memorandum
- Ambler Mining District Access Environmental Overview

- Ambler Mining District Access Design Criteria Memorandum
- Ambler Mining District Industrial Access Road Hydrologic and Hydraulic Field Reconnaissance Report
- Ambler Mining District Access Corridor Development Memo
- Ambler Mining District Summary Report

Coordination of State Resources

The ADNR Office of Project Management and Permitting (OPMP) provides a single point-of-contact to facilitate interagency coordination. OPMP is an office of the ADNR Commissioner and as such has the ability to bring the appropriate state resources to a project at the appropriate time. As the state is a significant stakeholder in the EEA and the ROW decision which will directly affect state lands, the NPS is encouraged to use OPMP as a partner in the EEA to ensure the NPS adequately solicits and considers the views of the state as required in 43 CFR §36.

Our office also has access to resources on projects with some measure of similarity to the AMDIAP, such as the DeLong Mountain Transportation System, the Pogo Road, and the Road to Tanana. Please do not hesitate to contact me for any of the information identified here. I am available to facilitate discussions between the state agencies and the NPS on the issues raised and any other issues the NPS would like to discuss.

The State of Alaska is a strong proponent of timely decision-making and anticipates a collaborative and effective working relationship with the NPS. We look forward to working with the NPS as the EEA is drafted and the ROW selection moves forward.

Sincerely,



Marie Steele, Large Project Coordinator
Office of Project Management and Permitting

ecc: NPS

Joe Durrenberger, PE, AMDIAP EEA Project Manager

State of Alaska

John Crowther, Director State & Federal Relations, Office of the Governor

Heidi Hansen, Deputy Commissioner, Alaska Department of Natural Resources

Mark Wiggin, Deputy Commissioner, Alaska Department of Natural Resources

Gary Mendivil, Office of the Commissioner Alaska Department of Environmental Conservation

Ryan Anderson, Assistant Commissioner Alaska Dept. of Transportation and Public Facilities

Don Perrin, Acting Director, Office of Project Management, Alaska Dept. of Natural Resources

Jennifer Douglas, Assistant Attorney General, Alaska Dept. of Law

Susan Magee, State ANILCA Coordinator, Alaska Department of Natural Resources

Cooperating & Participating Agencies

Melissa Reardon, Project Manager, U.S. Army Corp of Engineers

James Helfinstine, Project Manger, U.S. Coast Guard
Patrick Savok, Chief of Staff, Northwest Arctic Borough
Noah Naylor, Planning Director, Northwest Arctic Borough
Joe Durenberger, Project Manager, National Park Service
Betty Chon, Project Manager, Federal Highway Administration
Sarah Cohn, Project Manager, U.S. Fish and Wildlife Service

NANA

Lance Miller, Vice President Natural Resources, NANA Regional Corporation
John Lincoln, Vice President of Lands, NANA Regional Corporation

DOYON

James Mery, Senior Vice President Lands and Natural Resources, Doyon Limited
Sarah Obed, Vice President External Affairs, Doyon Limited

AIDEA

John Springsteen, AIDEA Executive Director
Mark Davis, AIDEA Chief Infrastructure Development Officer
Jeff San Juan, AIDEA Infrastructure Development Finance Officer

Attachments:

Attachment I: ADF&G Technical Report 97-8 – *Water Intake Structures an Alternative to Traditional Screened-Box Enclosures for the Protection of Fish*

Attachment II: ADF&G Technical Report 13-3 *Alaska Blasting Standard for the Proper Protection of Fish.*